

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

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PUBLIC EMPLOYMENT RELATIONS BOARD

WENDY ANDERSON GOTT,
Grievant
and
DEPARTMENT OF CORRECTIONS,
Employer

87-MA-22

Appearances

For the Department of Corrections:

Barbara Olk
Jean Sebek

For the Grievant:

Wendy Anderson Gott

I. JURISDICTION

Wendy Gott filed a timely appeal with the Public Employment Relations Board pursuant to 19A.14(2), IOWA CODE (1987) concerning a performance appraisal for the annual period ending November 15, 1986. A tape recorded hearing was held in Des Moines, Iowa on March 26, 1987. No briefs were filed.

II. ISSUE

The issue for resolution in this matter is whether the Department of Corrections substantially complied with Chapter 19A, IOWA CODE (1985) and the Rules of the Iowa Department of Personnel in evaluating the performance of Wendy Anderson Gott.

III. RELEVANT ADMINISTRATIVE CODE PROVISIONS

CHAPTER 13

PERFORMANCE PLANNING AND EVALUATION

* * *

581-13.2(19A) Minimum requirements.

13.2(1) Performance plan. The performance plan shall be based on the responsibilities assigned by the supervisor during the evaluation period and shall include the standards required for performance to be considered competent. The performance plan shall be given to and discussed with the employee at the beginning of the evaluation period. Significant changes in responsibilities or standards that occur during the evaluation period shall be included in the performance plan, and a copy given to and discussed with the employee.

13.2(2) Performance evaluation. A performance evaluation shall be prepared for each employee at least every twelve (12) months by the supervisor. Additional evaluations may be prepared at the discretion of the supervisor. Numerical ratings on the evaluation form shall be accompanied by descriptive comments supporting the ratings. The evaluation shall also include job related comments concerning areas of strength, areas for improvement, and training/development plans. The supervisor shall discuss the evaluation with the employee and the employee shall be given the opportunity to attach written comments.

Periods of service during educational leave required by the appointing authority, or military leave, shall be considered competent (3.00).

Exit performance evaluations shall be completed by the former supervisor on or before the last day before the movement of an employee to employment in another section, bureau, division or agency of state government. This evaluation shall be for the period between the previous evaluation up to the movement to the other position. A copy shall be forwarded to the new supervisor of the employee.

581 IA. ADMIN. CODE §13.2 (1986)

IV. FACTS

Gott complains of three entries in the performance evaluation she received on January 14, 1987 for the period from November 15, 1985 to November 15, 1986.

Each complaint will be discussed in turn.

A. In the Performance Plan established for Gott during this rating period, one of her "major responsibilities" was "to provide supervision of Correctional Officers and residents." Under the heading of "standards and results expected," part of Gott's performance in that major responsibility was measured by the standard "Submit and administer performance evaluations on all CO's within appropriate timeframes."

At the conclusion of the rating period, Gott received a rating of "1" in that category, with the following narrative:

Wendy has administered one performance evaluation during this reporting period. She had several due when she was on leave that the other supervisors had to do. She did not plan ahead to ensure they were completed prior to her going on leave.

Gott is one of six Correctional Supervisors at the Mitchellville facility. The facility has approximately 43 correctional officers split between three shifts working seven days per week. All supervisors supervise all officers at one time or another. To share the performance evaluation load more equitably, the Department publishes lists of which supervisors are responsible for completing performance evaluations on which officers. To facilitate this task, the Department keeps files on which different supervisors note comments on observed performance during shifts. As it becomes necessary to complete evaluations, each supervisor consults the files and incorporates other supervisor's observations into the evaluation.

In a memo published by the Department on April 17, 1986, Gott was responsible for evaluating officers Smith, Bristoll, Kerwin, Moore, Curran and Day. During the second week in September, 1986, Gott was reminded that several of the evaluations would come due during her upcoming pregnancy leave, and that she should try to complete them as much as possible prior to her absence.

On September 22, 1986, the Department published a new list of officers for which Gott and other supervisors were responsible for evaluating. Officer Crise was added to Gott's list, and officers Bristoll and Moore were deleted. The list included the notation "In Wendy Gott's absence, the other shift supervisors will administer the performance evaluations." Gott was on pregnancy leave from September 26, 1986 until November 6, 1986.

Gott completed the evaluation that became due while she was present. The evaluations that became due during her absence were completed by other shift supervisors.

B. One of Gott's other major responsibilities was "[p]lan, coordinate, and administer the training program at ICIW to meet ACA guidelines, DOC, and ICIW requirements." Under the heading "Standards and results expected" is the condition "Complete annual assessment and the annual training plan."

Gott received a rating of "1" in that category on her performance evaluation, with the following narrative:

Wendy has not completed the annual assessment or the annual training plan. She did turn in some goals and objectives for the fiscal year, however has not completed any of those at this time.

Prior to Gott's hire, the Department combined the duties of training officer and shift supervisor. There is no dispute that the requirement to complete the training plan/assessment is part of Gott's position. There is also no dispute that little, if any, of these duties were accomplished during the evaluation period.

Gott received an interim evaluation on March 3, 1986 which stated "Wendy has not been here long enough to complete the annual assessment and annual training plan." On April 15, 1986, Gott received a memo from Jean Sebec, which stated in part,

I will need your annual assessment and the annual training plan completed by May 15, 1986. If you need assistance, call Lee Johnson at Mt. Pleasant as he has been their training officer for several years.

Within a week of that memo, Gott was notified of her temporary assignment to another shift supervisor position due to a departmental demotion. In an interim evaluation she received for the period November 15, 1985 through May 15, 1986, Gott received a rating of "3" and the comment "Wendy is working on the annual assessment and training plan." The evaluation, which Gott received on May 23, 1986, makes no mention of the fact that she missed the May 15 deadline for completion of the items. Gott's temporary assignment ended in September, 1986 with the hire of a new shift supervisor.

C. Gott also appeals a notation under the heading "Future Performance Plans - Areas for Growth/Improvement." In that category the following narrative appears:

Wendy had difficulty during this reporting period with the occasional supervision of her husband.

The testimony reveals that when Gott interviewed for the shift supervisor position, she indicated to the Department that her husband was a correctional officer at the Fort Madison facility and might request a transfer to Mitchellville if she received the promotion. After she received the promotion, her husband did in fact transfer to Mitchellville. Because of the differing shifts and schedules, there are times when Gott is the sole shift supervisor on duty when her husband is also working.

The comment on the evaluation stems from an incident when Sebec apparently tried to contact Gott's husband. Gott intervened and told Sebec he was at "the store" when in reality he was in Kansas City on union leave.

V. CONCLUSIONS OF LAW

Each portion of Gott's appeal shall be addressed in turn.

A. Gott was expected to complete the performance appraisals on five different correctional officers "within appropriate timeframes" as set forth in her performance plan. Performance evaluations were required to be completed by shift supervisors approximately two weeks prior to the time they were due at the Department of Personnel. Thus, the "appropriate timeframe" for the evaluations Gott did not complete was this two week deadline. According to testimony, these would have been due the first or second week of October, well into Gott's pregnancy leave.

Testimony introduced by the Department indicated that Gott was told that her "appropriate timeframe" was being advanced and that she would be required to complete as much as possible prior to her departure on leave. However, the September 22, 1986 memo clearly indicates that other supervisors would pick up Gott's evaluation responsibilities in her absence.

Even if Gott was told to complete the evaluations prior to her departure, the Department violated 581 IOWA ADMIN. CODE §13.2(1) (1987) which requires that "Significant changes in ... standards that occur during the evaluation period shall be included in the performance plan and a copy given to and discussed with the employee." In changing the "appropriate timeframe" from previous practice, the Department was required by rule to so amend the performance plan and notify Gott in writing. By failing to do so, the Department cannot negatively remark on Gott's failure to complete the evaluations prior to her departure.

B. Gott alleges that her responsibilities were changed during the evaluation period, and that her responsibility for completing the annual assessment and annual training plan was taken away from her. Therefore, she argues,

it is unfair for the Department to comment on her failure to complete those tasks. For the following reasons, I conclude that at the very least, a misunderstanding occurred that Gott was not going to be held responsible for those items during her temporary assignment.

The two requirements were obviously lengthy and time consuming projects. Gott's three month evaluation indicated she had not been there long enough to complete the items. On April 15, Gott was given 30 days to complete the items. However, before the deadline, Gott was told she would have to pick up the slack caused by the demotion of another supervisor and concentrate more on shift supervisor duties.

In her six month evaluation, no mention was made of the missed May 15 deadline, only that she was still working on the items. Furthermore, the Department showed no evidence at the hearing that it attempted to follow-up on this requirement after the missed May 15 deadline or remind her of other training duties. Therefore, I find that Gott was reasonable in her belief that the requirement had been altered.

Rule 13.2(1) requires that such changes in responsibilities be made a part of the performance plan and that employees be so notified in writing. The Departmental failure to comply with this requirement makes any mention of Gott's failure to complete the items a violation of that rule.

C. The Department argues that the narrative comment in the future Performance Plans section is an attempt to give some direction to Gott regarding her relationship with her husband in her official capacity when the Department has no clear cut policy regarding relationships between members of the same family.

The Department is required to set "standards required for performance" based upon the responsibilities of the position. 581 IOWA ADMIN. CODE §13.2(1) (1987). Numerical ratings on performance against those standards are to be

accompanied by descriptive comments in support of the ratings. §13.2(2). On this issue, the Department gave Gott no particular standards of performance required in how to deal with her husband, only on how to deal with correctional officers generally. While the evidence indicates that the problem happened to occur in an issue involving her husband, the problem was that she did not respond in a truthful manner. The performance that the Department is therefore trying to improve is her truthful reporting of subordinate's whereabouts, not supervision of her husband. No evidence introduced at hearing indicates a problem with on-site supervision. The comment in the evaluation is therefore not "job related." Pursuant to Rule 13.2(2) only job related comments on areas of improvement can be included in the evaluation.

VI. AWARD

Rule 13.2(2) requires performance during periods of extended absence to be considered competent. Having been found to have committed harmful errors in the performance evaluation of Wendy Gott, the Department shall amend the disputed areas to reflect competent performance.

A. In category 2b, the evaluation shall be amended to show a performance rating of "3" and the comment will be limited to "Wendy has administered one performance evaluation during this reporting period."

B. Category 3a shall be amended to show a performance rating of "3" and the comment shall be amended to "Wendy has not completed the annual assessment or the annual training plan due to the assignment of additional duties as shift supervisor."

C. The final sentence in the Future Performance Plans narrative portion shall be stricken.

DATED at Des Moines, Iowa this 17 day of June, 1987.

James H. Gilliam
JAMES H. GILLIAM, ADJUDICATOR